

EXHIBIT 7  
DATE 11/6/09  
HB 50

To: House State Administration Committee  
Fm: Paul Clark, Trout Creek, MT  
Re: HB 50

Mr. Chairman and members of the House State Administration Committee, my name is Paul Clark and I am a former state legislator from Trout Creek, Montana. I have also been the chair of the state board of Private Alternative Adolescent Residential and Outdoor Programs from 2005-2008. I wish to voice my support for House Bill 50.

House Bill 50 is a bill that clarifies an important principle in the balance and separation of powers between the legislative and executive branches of our state government. It will help motivate state agency personnel to take a closer look at the origin and meaning of the laws they interpret in the rule making process.

It has been my experience as an appointed member of a state board that state agencies have a tremendous amount of influence in determining how laws passed by the legislature are interpreted in the rule making process. You might think that this responsibility would be in the hands of board members but, frankly, new members of a board are limited in expertise and often incapable of surmounting the will of a determined state agency that may choose to advance its own agenda. State agencies purportedly provide administrative support for boards but my experience has been that they are not at all shy about trying to direct the board's deliberative process. Legal counsel and administrative staff assigned to support state boards are in a position of power and have undue influence in determining the outcome of board deliberations. State agencies may also have an investment in the outcome of the rule making process, for expediency or political purposes, which is not necessarily in tune with the intentions of the sponsor of the bill or the entire legislature, when passing the effective language into law. Furthermore, state agencies are not mandated to revisit discussions held during legislative hearings when there is a question or disagreement regarding the intent of the law. Clearly, more safeguards are needed to help rule making become a more respectable endeavor and to ensure that it is the legislature, and not state agencies, that make the law. HB 50 would provide a simple safeguard.

In 2007, Rep Lake sponsored HB 769, a bill that established rule making authority for the Board of Private Alternative Adolescent Residential and Outdoor Programs. Representative Lake contacted the PAARP board and its state agency (DOLI) to clarify the legislative intent regarding the rules that were being written. I am certain that Representative Lake must be frustrated because I can honestly state that his admonitions were not given priority. Rules that would allow the board to license programs were to be established by October 1, 2008 but, as of the date of this testimony, these rules have yet to be published.

It is not the job of boards or state agencies to make the law. HB 50 is a step in the right direction to ensure that the separation of powers between the branches of government is respected. I would suspect that many agency lobbyists will attend today's hearing to oppose HB 50. I believe my testimony explains why.

Thank you for your consideration Mr. Chairman and members of the committee.

Sincerely, *Paul Clark*

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